

OKLAHOMA WORKERS' COMPENSATION COMMISSION
REGULAR MEETING MINUTES
JUNE 17, 2021, 1:30 P.M.

STATEMENT OF OKLAHOMA OPEN MEETING ACT COMPLIANCE

Notice of this Regular Business Meeting was filed with the Secretary of State's office on Tuesday, December 29, 2020, at 3:56 p.m. in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

MINUTES OF THE JUNE 17, 2021 REGULAR BUSINESS MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION COMMISSION

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2nd floor, Oklahoma City, Oklahoma, on June 17, 2021.

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Mark Liotta.

Others Present: Hopper Smith, WCC; Alexander Watkins, WCC; Sharon Smith, WCC; Ian Steedman, WCC; Collin Fowler, WCC; Andrea Delling, WCC; Dr. Jay Cannon, WCC; Cindy Compton-Sims, Metropolitan Health Care Self Insured Group; J. Christopher Sturm, Oklahoma Health Care Association.

Chairman Russell expressed appreciation for those in attendance. After the roll was taken, he announced the presence of a quorum. The meeting was called to order at approximately 1:30 p.m.

1. Approval of Minutes

The minutes of the June 3, 2021, Regular Meeting of the Commission were considered for approval.

Motion: Commissioner Tilly moved to approve the June 3, 2021, Special Meeting of the Commission.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

2. Discussion and Possible Action of Consent Agenda for Travel Vouchers Currently Outstanding

Title 85A O.S. § 23 states, [a]ny Commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission.” In accordance with this section, the Commission will consider a vote to approve the currently outstanding vouchers.

All travel vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today’s meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and voted upon separately.

Motion: Commissioner Liotta moved to approve the travel vouchers.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

3. Request to Approve the Distribution of Surplus Monies to Members of the Oklahoma Health Care Association (#75175)

Rule 810:25-11-10 of the Workers’ Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Oklahoma Health Care Association (“the Group”) has requested to make a partial distribution in the amount of \$500,000. The distribution will be payable from the following five fiscal fund years ending on June 30: FY 20 (\$100,000), FY 19 (\$200,000), and FY 18 (\$200,000).

The Group had a financial surplus of more than \$2,264,532 for all years combined, as indicated in the audited financial statement for the period ending June 30, 2020. The audited balance sheet for the period ending June 30, 2020 indicated a financial surplus of \$274,622.

The Group submitted the most recent audited financial statements and actuarial review of reserves, both as of June 30, 2020, as part of their request.

Sharon Smith was recognized, presented, and answered questions of the Commission.

J. Christopher Sturm was recognized, issued comments, and answered questions of the Commission.

Motion: Commissioner Liotta moved to approve distribution of surplus monies to members of the Oklahoma Health Care Association.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

4. Request to Approve the Distribution of Surplus Monies to Members of the Metropolitan Health Care Self Insured Group (#75220)

Rule 810:25-11-10 of the Workers' Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Metropolitan Health Care Self Insured Group ("the Group") has requested to make a partial distribution in the amount of \$366,643. The distribution will be payable from the following seven fiscal fund years ending on September 30: FY 13 (\$29,418), FY 14 (\$41,802), FY 15 (\$90,323), FY 16 (\$91,613), FY 17 (\$74,886), FY 18 (\$18,110), and FY 19 (\$20,491).

The Group submitted the most recent audited financial statements and actuarial review of reserves, both as of September 30, 2020, as part of their request.

Sharon Smith was recognized, presented, and answered questions of the Commission.

Cindy Compton Sims was recognized and answered question of the Commission.

Motion: Commissioner Liotta moved to approve distribution of surplus monies to members of the Metropolitan Health Care Self Insured Group.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

5. Discussion and Possible Action on Approval of Independent Medical Examiners and Case Managers for the Commission

Title 85A O.S. § 112 requires the Workers' Compensation Commission to create, maintain, and review a list of licensed physicians who shall serve as independent medical examiners

("IME"). The Commission shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured employees. Additionally, Section 113 requires the Commission to develop, maintain, and review a list of qualified case managers. The period of qualification for both physicians and case managers shall be two (2) years.

The Commission considered approving the list of physicians and case managers presented at the meeting that have been vetted by the Medical Director and recommended to have the applications approved.

Dr. Cannon was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Tilly moved to approve the list of IMEs.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

Motion: Commissioner Tilly moved to approve the list of case managers as presented.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

6. Discussion and Consideration of Approval of Annual Report

Pursuant to 85A O.S. § 101(A), on or before the first day of July each year the Commission shall prepare, make public, and submit a report for the prior calendar year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each member of the Legislature. The report shall contain a statement of the number of awards made and the causes of the accidents leading to the injuries for which the awards were made, total work load data of the administrative law judges, including a detailed report of the work load and judgments written by each judge, a detailed statement of the expenses of the Commission, together with any other matter which the Commission deems proper to report.

The Commission discussed and considered approval of the 2020 Annual Report as presented at the meeting.

Collin Fowler was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Liotta moved to approve the 2020 Annual Report.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

7. Discussion and Consideration of Commission's FY2022 Operating Budget

The Commission discussed and considered approval of its FY2022 operating budget, as proposed.

Andrea Delling was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Tilly moved to approve the FY2022 Operating Budget.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

8. Commission Review of the FY2022 Operating Budget for the Oklahoma Multiple Injury Trust Fund ("MITF") to either take no action or reject administration expenses, as provided in Title 85A O.S. § 31(S).

Andrea Delling was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Liotta moved to take no action.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

No action was taken on this agenda item.

9. Discussion and Possible Action on Kerr Building Lease Addendum to Extend Lease Term

House Bill 4139 (2020) directed OMES to transfer title of, and all leases for space within, the Robert S. Kerr State Office Building in Tulsa, Oklahoma to the Board of Regents for the Oklahoma Agricultural and Mechanical Colleges effective January 1, 2021, with the Board of Regents serving as the new lessor.

In order to extend the lease term until the new Tulsa office space is remodeled and ready for occupancy, a proposed Addendum has been provided to continue the current lease under the same terms until December 31, 2021.

Chairman Russell presented and answered questions of the Commission.

Motion: Commissioner Tilly moved to approve extension of the lease.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

10. Discussion and Possible Action on Lease Agreement for New WCC Tulsa Office Space

House Bill 4139 (2020) directed OMES to relocate state agencies currently housed within the Kerr Edmondson Building in Tulsa, Oklahoma, including the Workers' Compensation Commission, to a property owned by the Commissioners of the Land Office ("CLO"). CLO and OMES have identified 201 W. 5th Street in Tulsa, Oklahoma as a relocation site for the WCC's Tulsa Office. The Commission discussed and considered action on a proposed Lease Agreement with CLO and OMES to occupy this office space.

Chairman Russell presented and answered questions of the Commission.

Motion: Commissioner Liotta moved to authorize the Commission's Chairman to continue negotiations.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

11. Discussion and Possible Action on the Issuance of a Requisition against the Lease Agreement between the Commission and the Commissioners of the Land Office for Fiscal Year 2022

The Commission discussed and considered the issuance of requisition to cover Year 1 of a 10-year lease between the Commission and the Commissioners of the Land Office for the Tulsa office space in the 201 Building for FY 2022. The annual total cost of the lease is determined by the individual, joint, and shared lease space occupied by the Oklahoma Workers' Compensation Court of Existing Claims and the Commission).

Motion: Commissioner Tilly moved to continue the matter to the next business meeting.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

12. Discussion and Possible Action on the Issuance of a Requisition against the Lease Agreement between the Commission and the Office of Management and Enterprise Services (OMES) for Fiscal Year 2022

The Commission discussed and considered the issuance of requisition against the existing Lease Agreement between the Commission and the Office of Management and Enterprise Services (OMES) for the 3rd Floor office space in the Denver Davison Building for FY 2022. The total annual cost of the lease is \$84,948.00. Of note, OMES confirmed the lease may be cancelled with a 30-day cancellation notice.

Motion: Commissioner Liotta moved to approve the lease agreement.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

13. Discussion and Possible Action Regarding the Draft Oklahoma Option Insured Guaranty Fund Monies Letter

The Oklahoma Option Insured Guaranty Fund, 85A O.S.2014, §§ 201-213 (now repealed), was found unconstitutional in 2016, and assessments from insurers and carriers are no longer collected or paid into the fund. The Commission discussed a draft letter seeking legislative assistance to address monies remaining in this fund.

Commissioner Liotta presented and answered questions of the Commission.

Motion: Commissioner Liotta moved to continue this item to the next business meeting.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

14. Possible Executive Session Pursuant to 25 O.S. § 307(B)(1) and Possible Action.

A. Motion and Vote to Enter into Executive Session

Motion: Commissioner Tilly moved to enter into executive session.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

B. Discussion in Executive Session

The Commission discussed the employment, performance, and/or salary of each individual Commission employee pursuant to 25 O.S. § 307(B)(1).

Motion and Vote to Reconvene in Open Session

Motion: Commissioner Tilly moved to enter into exit executive session.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

C. Motion and vote on Possible Action.

Motion: Commissioner Tilly moved that the Commission approve a 2% cost of living increase for all employees exempting Alexander Watkins, Molly Lawyer, John Blodgett, Blair McMillin, Mike Egan, Shane Curtin, Tara Inhofe, Ian Steedman, Hopper Smith, Andrea Delling, James Lawson, Mark Liotta, Megan Tilly, Jordan Russell, Lindsey Bushyhead, Collin Fowler, and Sharon Smith. Commissioner Tilly further moved that Alexander Watkins, Ian Steedman, Andrea Delling, Lindsey Bushyhead, Sharon Smith, Collin Fowler, and James Lawson salaried be increased in the amount discussed during executive session. Commissioner Tilly further moved that these changes be effective July 1, 2021.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

15. New Business

“[A]ny matter not known about or which could not have been reasonably foreseen prior to the time of the posting.” 25 O.S. § 311.

There was no new business.

16. Announcements

The Commission's next regular appeals meeting is on Friday, June 18, 2021 at 9:00 a.m. The Commission's next regular business meeting is on Thursday, July 15, 2021 at 1:30 p.m.

ADJOURNMENT.....Chairman Jordan Russell

Motion: Commissioner Liotta moved to adjourn.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

The meeting adjourned at 3:05 p.m.